

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES HOLBROOK,

Petitioner,

Case No. 17-13268

v.

HON. AVERN COHN

STEVE RIVARD,

Respondent.

**ORDER OF TRANSFER TO THE COURT OF APPEALS FOR THE SIXTH CIRCUIT
UNDER 28 U.S.C. § 2244(b)(3)(A)**

I.

Petitioner Charles Holbrook, (“Petitioner”), a state prisoner, has filed yet another petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ Petitioner was convicted of two counts of producing child sexually abusive material, two counts of allowing a child to engage in child sexually abusive activity, two counts of possessing child sexual abusive material, accosting a child for immoral purposes, and felon in possession of a firearm. As grounds for the petition, Petitioner asserts “I am held in violation of due process. . . . I am in prison. There has been no crime. The State has no evidence of any crime.” Doc. 1.

Because this is a successive petition challenging the same convictions, the case will be transferred to the Court of Appeals for the Sixth Circuit for authorization as to whether Petitioner may file the petition.

¹This is at least Holbrook’s seventh federal habeas petition filed in 2017 in this District. See E.D. Mich. Case Nos. 17-12548, 17-12251, 17-11477, 17-11232, 17-11068, and 17-11606. He has filed approximately a dozen other habeas petitions attacking his convictions and sentences since 2013. See E.D. Mich. Case Nos. 13-13137, 16-10684, 16-10881, and 16-11901; W.D. Mich. Case Nos. 16-00142, 16-00140, 16-00062, 17-00390, 16-00171, 13-00663, 15-00056, and 15-00131.

II.

As noted above, see n. 1, Petitioner has filed numerous prior petitions challenging his convictions. For purposes of this order, however, it is enough to note that Petitioner has filed at least one prior petition for a writ of habeas corpus challenging the convictions at issue in the present case that was denied on the merits. See Holbrook v. Rapelje, No. 13-13137 (E.D. Mich. April 1, 2016).

Before a second or successive habeas petition is filed in a federal district court, a petitioner must move in the appropriate court of appeals for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A); Stewart v. Martinez-Villareal, 523 U.S. 637, 641 (1998). A federal district court does not have jurisdiction to entertain a successive petition for writ of habeas corpus in the absence of an order of authorization from the court of appeals. Ferrazza v. Tessmer, 36 F. Supp. 2d 965, 971 (E.D. Mich. 1999). Where, as here, a petition is filed in the district court, the district court must transfer the petition or motion to the court of appeals. Id. at 971.

III.

The Clerk of the Court shall TRANSFER this case to the Sixth Circuit under 28

U.S.C. § 1631 and In Re Sims, 111 F.3d 45, 47 (6th Cir. 1997).

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 10/30/2017
Detroit, Michigan